

MILFORD BOARD OF ADJUSTMENT MINUTES – MARCH 18, 2004

Present: Len Harten, Chairman
 Rick Westergren, Vice-Chairman
 Katherine Bauer
 Bob Levenson
 Heather Nelson

 Shirley Carl, Recording Secretary

Excused: Kathleen Maher

Case # 4-04 Fred Carelli – 26 Osgood Rd. – Map 34, Lot 21 – Special Exception from Article V,
Para. 5.022.A – Res. "A" to convert the existing porch into a workshop for a home occupation for
a workshop to make and sell pottery

Motion to approve _____

Seconded by _____

Signed _____

Date: _____

Chairman Harten opened the meeting at 7:32 PM by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the NH State Statutes.

The Notice of Hearing and abutter list was read into the record. Present - Fred Carelli and abutter Alden & Karen Piper.

Mr. Carelli explained that he would like to use his existing porch as a pottery studio to make and sell pottery items.

1. To his knowledge, he meets all the criteria regarding square footage and living space. First floor square footage is 1,619 SF; 25% of that equals 405 SF and he will be using 384 SF. There will be no odor associated with the pottery making.
2. Proposed days and hours of operation – three days/week and one weekend day; 10 am – 4 pm.
3. He is handicapped and this would allow him to do something and to earn a little money.
4. It won't become a large business that would encourage a lot of public traffic.
5. He does have a small outdoor kiln and is aware of the safety measures that are required. He does have an electric kiln in the studio and has met all the setbacks and done required insulation. It meets all the electric codes to make it a safe operation. He has met with the Fire Dept. and has received the permits to use the kiln. The plan indicates the porch studio to be 24x18'

He then discussed the criteria for a Special Exception:

- A. The proposed use shall be similar to those permitted in the district. He stated that there are other people on Osgood Rd. that have home occupations
- B. The specific site is an appropriate location for the proposed use. He has ample parking spaces for 12 cars.
- C. The use as developed will not adversely affect the adjacent area. It is within his house and around the back; nothing will be visible from the front. There is some lighting in the parking area.
- D. There will be no nuisance or serious hazard to vehicles or pedestrians. He doesn't expect a lot of traffic or people other than craft people. Regarding deliveries – he orders enough clay to last him for an entire year. He might have mail order. There is adequate space at the rear of the property to be able to turn around and he also has plans to enlarge his driveway.
- E. Adequate appropriate facilities will be provided for the proper operation of the proposed use. He intends to have the Fire Chief to check the operation.

Home Occupation criteria:

1. The shop will consist of one employee – himself
2. He would like to erect a sign and was told he could have a two square foot sign.
3. He will be using 384 SF of the first floor which is less than the 25%.
4. Finished goods - No finished goods
5. Character of the premises – His residence isn't being changed. He is doing everything he can to make the lot look nice.

Alden Piper, abutter stated that Mr. Carelli has done a nice job on the house and land. He was concerned with traffic. He didn't voice any objection.

No further comments/questions, Chairman Harten closed the public portion of the hearing.

Vote as follows:

1. Is the exception allowed by the ordinance?

K. Bauer-Yes

B. Levenson – Yes

R. Westergren – Yes

L. Harten – Yes

H. Nelson - Yes

2. Are the specified conditions present under which the exception may be granted?

K. Bauer-Yes

B. Levenson – Yes

R. Westergren – Yes

L. Harten – Yes

H. Nelson - Yes

A motion was made by B. Levenson; seconded by H. Nelson and unanimously voted to grant the request.

Thirty day appeal period - April 19, 2004

Hearing was closed at 8:02 pm

MILFORD BOARD OF ADJUSTMENT MINUTES – MARCH 18, 2004

Present: Len Harten, Chairman
Rick Westergren, Vice-Chairman
Katherine Bauer
Bob Levenson
Heather Nelson

Shirley Carl, Recording Secretary

Excused: Kathleen Maher

Case # 5-04 Michelle Knightly, 4 West St. – Map 25, Lot 129 – Special Exception from Article V, Para. 5.022.H – Commercial District to replace an existing three-car garage 3' ± - from the side property line and 6'± from the rear property line.

Motion to approve _____

Seconded by _____

Signed _____

Date: _____

Chairman Harten opened the meeting at 8:06 PM by stating that the hearings are in accordance with the Town of Milford Zoning Ordinance and the NH Statutes.

The Notice of Hearing and abutter list was read into the record. Present – Michelle & Harry Knightly; no abutters present.

Mr. Knightly made the presentation as follows:

1. The plan is to remove the existing building and replace it with a new one as it is dilapidated. The existing building is 20x28' and being replaced with a 24x30' building.
2. Reason for the increase in size is that a car can't be housed in the existing size. We have to be 6' off the rear property line so we don't have to fire proof the garage. The building will be 2' wider and 4' deeper.

Criteria –

- A. The proposed use shall be similar to those permitted in the district – The proposed building shall be used as a garage and for personal storage.
- B. The specific site is an appropriate location for the proposed use – Replacing an existing three-car garage.
- C. The use as developed will not adversely affect the adjacent area – Replacing an existing building.
- D. There will be no nuisance or serious hazard to vehicles or pedestrians – It will be set in the back corner of their property.
- E. Adequate appropriate facilities will be provided for the proper operation of the proposed use – This garage is intended for storage use only. No utilities proposed.

No further questions/comments from homeowner or Board members, Chairman Harten closed the open portion of the meeting at 8:14 pm.

Vote as follows:

1. Is the exception allowed by the ordinance?

K. Bauer-Yes B. Levenson – Yes R. Westergren – Yes L. Harten – Yes
H. Nelson - Yes

2. Are the specified conditions present under which the exception may be granted?

K. Bauer-Yes B. Levenson – Yes R. Westergren – Yes L. Harten – Yes
H. Nelson - Yes

A motion was made by B. Levenson; seconded by H. Nelson and unanimously voted to grant the request.

Thirty day appeal period - April 19, 2004

Hearing was closed at 8:15 pm

1:40 pm

MILFORD BOARD OF ADJUSTMENT MINUTES – MARCH 18, 2004

Present: Len Harten, Chairman
Rick Westergren, Vice-Chairman
Katherine Bauer
Bob Levenson
Heather Nelson

Shirley Carl, Recording Secretary

Excused: Kathleen Maher

Case # 6-04 Danielson Realty Trust/Hampshire Hills Racquet & Health Club – Emerson Road – Map 48, Lots 36 & 52 – Res. “R” and Map 48, Lot 41, Res. “A” – Special Exception from Article VI, Para. 6.0.26A & B to impact 13,520 SF of wetland and 53,500 SF of wetland buffer to construct an indoor track & soccer field facility and two multi-use exterior fields.

Motion to approve _____

Seconded by _____

Signed _____

Date: _____

1:45 PM

Chairman Harten opened the meeting at 8:20 pm by stating that the hearing is in accordance with the Town of Milford Zoning Ordinance and the NH Statutes.

The Notice of hearing/abutter list was read into the record: Present – Rick Holder of Hampshire Hills, Jay Heavisides of Meridian Land Services; abutters - Katherine Kendall and Doris Fay.

There seemed to be a discrepancy with abutters but after it was completely checked out, everything seemed fine. The question stemmed with 48/39/00A which was a condo.

4:24 PM – 3/18-04

J. Heavisides gave the presentation:

(Please note that the presentation was done by pointing out on a plan received on 3/18/04 which is now part of the file)

1. This case is for wetland and wetland buffer impacts for a proposed recreational building.
 2. He gave some history i.e. In 1996 and 1997 work had been done that disturbed wetlands and since then R. Holder has been dealing with the Wetlands Bureau and DES in coming to a resolution. In December of 2003, the Wetlands Permit was issued, January 2004 we received the ACE permit and February 2004 we received Site Specific permit. Throughout the entire process the ConCom has been involved giving their input and reviews.
 3. The proposed building is an air supported structure that is used to cover large, indoor spaces that will be used for recreational purposes. It is positive air pressure. The inside use of the building is the driving force for the size of the building. The proposed building is now located within the dry area on the front portion of the lot. The building will have the indoor soccer fields, couple basketball courts, track and roller blade. R. Holder did inform the Board that it does have the potential for a golf driving. The size of the building from 1996/1997 has been reduced by 40%.
 4. Because the proposed building will be a dome building, provisions for snow coming off of it. We have an 18' paved aisle around the building, (not considered to be parking) in order to allow the snow to drop off and then be removed. We do have a fire lane around that. On the east side there is parking but on the west side, it is just snow storage and the driveway around the building.
 5. We have shrunk the building and consolidated the parking and now have impacts which are listed on the plan. (See Exhibit A or on Sheet SP1). After disturbance and restoration, the total wetland impact amounts to 15,678 SF. The Wetlands Bureau required that the wetlands be mitigated and provide compensatory storage. The wetlands that were created are in the middle of the parcel just north of the existing wetlands – 10,550 SF were created. (These numbers are located on Sheet RP-2).
 6. Wetland buffer – the areas shaded in green represent the 25' buffer that has also been disturbed but will be restored as part of the wetlands permit. The total wetland buffer that has been disturbed to date is 77,930 SF; 37,530 SF will be restored leaving a net impact to the buffer of 40,400 SF. (See Exhibit A)
- The Conservation Easement is in the process of being deeded. J. Heavisides referred to the Wetlands Permit #1996-02279 where one of the conditions is that the easement have monuments set at major corners and at intervals along the easement; plans be made of each individual lot with metes and bounds for these easements and the plans be recorded; a report be made on the current conditions of the land within the CC easement and DES inspects the easement monumentation and at that point restoration can commence. It a process of about 25 steps.

6 pm stopped

11:19 am 3-22-04

He continued by indicating on SP1 – highlighted areas Brown areas are the impacts on I-XII; Light tan area – 25' wetland buffer.

Impact 1 is for a storm water detention basin near Emerson Rd., there is an existing 24" culvert and we had to increase the storage capacity and it should be filled into wetlands.

Impact 2 is for a culvert and rip rap for a road connecting the proposed facility to the existing facility.

Impact 3 is for the driveway going around the proposed facility.

Impact 4 – There is a path that comes from the existing structure to the field area and there is a granite slab and the wetland goes across the slab. The Wetland Bureau is making that come out and an elevated wood walking platform (18") above ground (600 SF of impact on the bridge).

Impact 5 - 70 SF of grading for the parking lot.

Impact 6 – Grading from the road going around. We avoided wetland impact with the connection over to the satellite parking area. There will be a foot bridge and the abutments will be placed outside of the wetlands and the bridge will be set down on top. It will be wide enough so their small plow trucks can plow in the winter but not intended to be a vehicular traffic bridge.

SB2 shows more impacts

Impact 7- located on the west side – impact from the driveway around the building and the associated buffer.

Impact 8 – a small impact for the wetland – 50 SF.

Impacts 9 & 10 – Increasing the width of the existing road that goes through the wetland to make it safer for traffic going to the fields. It will be increased for 12' up to 20' gravel road and an additional culvert will be required to let the water go over the road during high rain fall events.

SP3

Impact 11 -There are more buffer impacts on either side of the proposed soccer field; permanent impact from the restoration (not shaded on plan).

Impact 12 – On the southern portion of the property where there is an access road proposed over to the western portion to the proposed soccer field; some regarding of the brook will be needed.

The total permanent wetland disturbance between the restoration and the proposed is **15,678 SF**. The total permanent buffer disturbance between the restoration and the proposed is **74,440 SF**. Since the application doesn't reflect the above-stated figures, they will need to be adjustment tonight. The plan needs to be recorded before work can begin. DES & ACE approved the 17 sheet set - Plans by Meridian Land Services dated March 7, 2000, revision F 4/10/03. The Conservation easement doesn't reflect the 25' buffer. Part of the site specific is that we don't increase the runoff from the site; site specific has approved the plan and reviewed the drainage. A question arose regarding the need of salt on the site for ice removal? J. Heavisides explained that the site will be pretty open and feels the sun should take care of it. R. Holder explained that they use a mix of chloride that isn't supposed to be harmful on our steps and walkways and then sand is used in the parking lots. There was a question as to the use of sand only in the parking lots and Mr. Holder will look into this matter. They do not intend to use any type of salt.

J. Heavisides then addressed the Special Exception Criteria 10.020

A. The proposed use shall be similar to those permitted in the district. The existing Hampshire Hills facility with recreation outside and associated parking is an extension of that. Commercial district.

- B. The specific site is an appropriate location for the proposed use. Being adjacent to the current facility it ties in well with the current use. This is an extension of the existing use.
- C. The use as developed will not adversely affect the adjacent area. The concentration is on wetland impacts. Because of the size of the site, all the impacts are on the interior of the property.
- D. There will be no nuisance or serious hazard to vehicles or pedestrians. The wetland impacts are to prevent that by allowing good access around the building, etc. The internal connector road can be used instead of going out and then back into the facility. Traffic is a concern and the Town's engineer is looking at the possibility of the need of a traffic light and intersection of Nashua St. and Ponemah Hill Rd. or Powers St. It was felt that part of Emerson Rd. will need to be widened because it is 21.9' east of our entrance; 21.7' wide to the west and any vegetation along the side of the road that will interfere with the line of sight will have to be improved.
- E. Adequate appropriate facilities will be provided for the proper operation of the proposed use. Being that it is wetlands it is hard to give it a direct answer other than saying that the grading is adequate, it isn't so steep that you have to worry about it collapsing or failing. The slopes have been brought in to minimize the wetland impact and stable the slope so the road doesn't fail.

The Criteria for Evaluation – 6.027 was then addressed.

- 1. The need for the proposed project. R. Holder felt there was a definite need in the area of Milford and the surrounding towns.
- 2. The plan proposed is the alternative with the least impact to the wetlands, surface waters and/or their associated buffers. The building was reduced down to about 140,000 SF and it fits in between the wetlands. The wetland crossings are happening at narrow points. These crossings were picked by the Conservation Commission and the State. This is cleaning up a lot of stuff as part of the restoration.
- 3. Impact on plants, fish and wildlife. Once the restoration is complete the impacts to the wetlands are areas where there isn't any fish. By virtue of the Conservation easement this area will be set aside and remain in its natural state and will recover. Most of the site has recovered already without any help. This area will also return and don't believe there will be any adverse impact on the site with the design of the proposed building, catching of the storm water run off and detaining it.
- 4 & 5. The impact on the quantity/quality of surface and ground water and the potential to cause or increase flooding, erosion or sedimentation. This will insure that the rate of run off from the site remains the same and it won't cause flooding. The storm water will run through treatment swales to remove sediment and also going into the detention basin, sediment will settle off there, so if there is any sediment that comes out at the end it would have had to be quite a large storm.
- 6. The cumulative impact etc. The wetland is completely surrounded by land that is owned by Hampshire Hills and Danielson Realty Trust. No more wetland impacts will be allowed by the Wetlands Bureau. The cumulative affect is what is shown on the plan – no more proposed wetland impacts allowed.
- 7. The impact of the proposed project and the values and functions of the total wetland or wetland complex. When the restoration is complete, the previous impacts should have been restored or mitigated and the proposed impacts are all on the very edges of the wetland so they are narrow places and won't go out into major portions of wetlands. The value of the wetlands will actually improve once the restoration, plantings and grading take place.

Answers to some general questions --

There is no intention to light the new fields. The snow slide for the building determines the height. The height will be between 68 and 74' at the peak. A variance will be required for the height of the building. The color of the building will be opaque. A question arose as to the CC letter of 2002 and the present date. It was explained that nothing had changed, it just took two years for the State to complete the review and they have added more stringent requests.

Revision F is dated 4/10/03 but those modifications were for site specific and treatment swales and detention basins but they didn't change the major portion of the plan, just minor things that had to deal with drainage. The Conservation Commission is up to speed on this matter.

Abutter comments –

Doris Fay explained that her well is located on the property in question. It is only several hundred feet from the soccer field outside and she is concerned with her well becoming contaminated with soda cans, candy wrappers, children throwing things down it and being pushed in with sand when heavy equipment is there. Her well is a 20' shallow well and about 200 years old and feels it is very fragile. J. Heavisides informed Mrs. Fay that her well has been located (she doesn't think that is where it is). There was an adjustment to the Reeves lot line and the markers out there are correct. The proposed building is down slope near Emerson Rd. where all the paving is and where the proposed detention pipes are located. We are talking about 20' from her property so the water that is going into the detention system would never be near her well. The only water that would be near her well would be Phase III. We have to meet state guidelines for the citing of the proposed septic system. R. Holder mentioned that this discussion arose at the Planning Board meeting and it was our opinion that we would do everything properly and do everything to protect Mrs. Fay's water access. We are also willing to indemnify her rights to have good water through that supply and if necessary, we would position a testing device so the water could be checked on a regular basis. We have offered a monitoring device to protect her well site. Mrs. Fay requested this in writing. Mr. Holder stated that he would be happy to meet with her attorney regarding this matter. Mrs. Fay would like a fence around her well and was informed there was one. She then requested a better one.

Katherine Kendall, abutter voiced many concerns about water flow, culverts. Mr. Heavisides did his best to address all of her concerns.

Again, Mrs. Fay wanted everything done correctly regarding her well through her attorney.

N. O'Connell, Selectman stated that she had received many calls from people that live on Emerson Rd. concerned with the flow and whether or not it would affect their wells. J. Heavisides responded that the peak flow rates have not increased. Flooding won't occur and it won't have any affect on the wells. R. Holder stated that anything that can be done to slow the rate gives much more time to replenish of the area. Slowing down the water is the key.

No further questions, the open portion of the meeting was closed at 9:50 p.m.

Voting then took place.

1. Is the exception allowed by the ordinance?

H. Nelson – Yes R. Westergren – Yes K. Bauer – Yes B. Levenson – Yes L. Harten – Yes

2. Are the specified conditions present under which the exception may be granted?

H. Nelson – Yes R. Westergren – Yes K. Bauer – Yes B. Levenson – Yes L. Harten – Yes

A motion was made by R. Westergren, seconded by B. Levenson and unanimously voted in the affirmative.

There is a 30-day appeal period - April 19, 2004

Hearing adjourned at 10:00 pm